

## THE CITY OF CLAYTON

Board of Aldermen Meeting  
Council Chambers - 10 N. Bemiston Avenue  
May 22, 2012  
7:05 p.m.

### Minutes

Mayor Goldstein called the meeting to order and requested a roll call. The following individuals were in attendance:

Aldermen: Michelle Harris, Andrea Maddox-Dallas, Cynthia Garnholz, Mark Winings, Joanne Boulton, and Alex Berger III.

Mayor Goldstein  
City Manager Owens  
City Attorney O'Keefe

Mayor Goldstein asked for any questions or comments relating to the May 8, 2012 minutes, which were previously provided to the Board.

**Alderman Garnholz moved to approve the May 8, 2012 minutes. Alderman Maddox-Dallas seconded the motion.**

**The motion to approve the minutes passed unanimously on a voice vote.**

### **PUBLIC REQUESTS AND PETITIONS**

Basil Rudawsky, St. Louis County Cab and Yellow Cab Company, addressed the Board regarding the City's proposed changes to Sections 355 and 620 of the Municipal Code related to taxi cab stands. He said that the proposed ordinance is poorly designed and will be operationally and logistically impossible for taxi companies to comply. He said that the proposed cost provisions are an unfair increase structure that penalizes a company that is interested in serving Clayton. He said that Section 355 involves eliminating the taxi cab stands from their current format and seeks to establish one or more taxi cab stands in a different manner which offers no guarantee of a parking spot available and no incentive to keep a supply of taxis in Clayton. He said that monitoring the number of cabs at a stand will not work. He sent an email dated May 11<sup>th</sup>, but had not heard from anyone, but spoke with City Attorney O'Keefe today. He recommended that the City issue a flat participation fee per company and also recommended that the Board table the ordinance. He said that if the proposed ordinance is voted on and passes it will not be an incentive, but instead, a deterrent. He thanked the Board for their time.

Mayor Goldstein stated that she appreciated him speaking before the Board tonight.

Jean Most, 95 Aberdeen, addressed the Board regarding the tree ordinance. She apologized that she is expressing her concerns about the tree ordinance so late in the process. She said that she is not a *Facebook* or *Twitter* user and would therefore not have received communication on the issue at an earlier time. She expressed that the proposed ordinance may be faulty and asked Mayor Goldstein if there would be any impact to her if she planted trees in her back yard as a barrier.

Mayor Goldstein stated that she believes there would be no impact to Ms. Most.

Ms. Most referenced the proposed ordinance related to the 20 feet utility easement requirement stating that many of the yards back up to a utility easement and the requirement for a planting to not be located within 20 feet of an overhead utility line is somewhat impossible due to most of the Hillscres homes having short backyards. She said that the concern over the 20 feet requirement is important to her because a large school is being constructed and she would like to screen her property from its view. She requests that the Board reconsider the 20 feet requirement.

City Manager Owens stated that the requirement is an existing Ameren UE restriction.

Ms. Most said that she talked with an Ameren representative and they said that this is not a requirement and asked if the City is giving the proposed ordinance “extra power” by including the requirement.

John Sutherland, 87 Aberdeen, addressed the Board stating that the School Board promised the residents screening trees which would be within the 20 feet easement. He addressed a question to the City Attorney stating that the current legislation would only apply when a site plan is required pursuant to Section 405.1000 of the Clayton Zoning regulations or when architectural review is required pursuant to Section 400.140. He said that the School Board is above and beyond the zoning laws and the laws of Clayton. He said that this would mean that anything that the school plants in fulfilling their promise to the residents the 20 feet restriction would not apply because it would be on the school land.

City Attorney O’Keefe stated that he has not considered that issue and wouldn’t want to try to do the analysis without research.

Mr. Sutherland stated that the proposed ordinances seems like it is giving additional easement to Union Electric and does not see how the City of Clayton can place an easement on his land without his permission for the benefit of a utility company.

City Attorney O’Keefe stated that he is aware of the fact that Mr. Sutherland is also an attorney with ample experience, particularly in property rights and creditor interests and would not presume to advise him on the law.

**A PUBLIC HEARING AND RESOLUTION TO CONSIDER APPROVING A CONDITIONAL USE PERMIT FOR 5 STAR BURGERS 8125A MARYLAND AVENUE**

**Alderman Harris moved to open the public hearing to consider Resolution No. 12-15, a request for a conditional use permit for 5 Star Burgers located at 8125 Maryland and request proof of publication. Alderman Maddox-Dallas seconded.**

**The motion passed unanimously on a voice vote.**

City Manager Owens reported that this is a public hearing and resolution to consider approving a Conditional Use Permit for the operation of a restaurant to be known as 5 Star Burgers at the subject location (formerly occupied by a florist and photography studio).

5 Star Burgers will occupy 2,200 square feet and seat 75 patrons inside the restaurant, including the bar area. The outdoor dining area proposes to accommodate an additional 24 patrons, for total customer seating of 99.

The restaurant will primarily serve American style cuisine featuring half-pound, fresh ground, hand-formed hamburgers. Specialty sandwiches, salads and milkshakes will also be offered. The applicant will also be requesting a full liquor license.

Since the restaurant will be less than 3,000 square feet, off-street parking is not required; however, the applicant has indicated that 64 parking spaces are available behind this building for the commercial tenants that occupy the complex.

The proposed hours of operation are 11:00 a.m. - 10:00 p.m., Monday through Saturday and 11:00 a.m. to 9:00 p.m. on Sunday. Deliveries to the restaurant will be made through the rear door. Trash and single stream recycling will be stored in receptacles located at the rear of the building.

The Plan Commission considered the request for the Conditional Use Permit at its May 7, 2012, meeting and voted unanimously to recommend approval to the Board of Aldermen. The Architectural Review Board unanimously approved the outdoor dining at its May 7, 2012.

Recommendation is to approve a Conditional Use Permit for the operation of 5 Star Burgers at 8125/8125A Maryland Avenue.

Steve Gontram, owner, addressed the Board stating that he is the former owner and chef of Harvest which he sold a year ago.

In response to Alderman Harris' question, Mr. Gontram said that they are providing a gourmet burger and not fast food although the table service will be quick with the customer receiving a high value meal for a small price. He said that in addition they will be serving specialty sandwiches, salads, and milkshakes and they will also have a full service bar.

In response to Alderman Maddox-Dallas' question, Mr. Gontram said that he hopes to open in August. He said that burgers are the #1 food item ordered in America and that his father has three locations in New Mexico.

Alderman Berger welcomed Mr. Gontram back and apologized for missing the Plan Commission meeting.

In response to Alderman Berger's question, Mr. Gontram said that he is stressing recycling and they will be adding single stream recycling dumpsters for their facility. He said that they also will have a 13 foot hood installed with high-tech filters to handle the smoke/air from the grills and that he does not think the neighbors will be affected.

In response to Alderman Boulton's question, Mr. Gontram stated that the restaurant is not a chain, but his father has three locations in New Mexico with a different menu.

**Alderman Harris moved to close the public hearing to consider Resolution No. 12-15, a request for a conditional use permit for 5 Star Burgers located at 8125 Maryland. Alderman Maddox-Dallas seconded.**

**The motion passed unanimously on a voice vote.**

**Alderman Harris moved to approve Resolution No. 12-15, a request for a conditional use permit for 5 Star Burgers located at 8125 Maryland. Alderman Maddox-Dallas seconded.**

**City Attorney O'Keefe noted a typo in the resolution, affect should be effect.**

The motion passed unanimously on a voice vote.

Mayor Goldstein commented that she is looking forward to the restaurant being in Clayton.

**AN ORDINANCE TO CONSIDER APPROVING MODIFICATIONS TO EXISTING CONTRACTS, FOR TENANT FINISHES ON THE THIRD FLOOR, AS PART OF THE CONVERSION OF 10 SOUTH BRENTWOOD AVENUE INTO A MUNICIPAL AND POLICE FACILITY**

City Manager Owens reported that the third floor of 10 South Brentwood Avenue will be occupied by two government tenants. When the rest of the work was bid for this project, the details and requirements for the space to be occupied by one of the tenants of this floor were not yet available. We now have those details and requirements; and modifications to the existing, ongoing plans, specification, and contracts have been prepared. This ordinance authorizes and directs the City Manager to modify the existing contracts in amounts not to exceed those shown in the table below; which include a 15% contingency. The lease agreement limits the City's portion of these additional costs to \$50.00 per square feet, or approximately \$182,000, which has been included in the project budget. The remainder of these costs will be reimbursed by the tenant.

<b>Conversion of 10 South Brentwood Boulevard into a Municipal and Police Facility</b>			
<b>Bid Package</b>	<b>Contractor</b>	<b>Current Contract</b>	<b>Addition for Tenant 2 Finishes; Not to Exceed</b>
Construction Manager	PARIC Corp	\$686,634	\$37,800.00
#3 General Building	Pinnacle Contracting	\$5,200,700	\$208,022.17
#4 Fire Protection	Fire Tech	\$499,549	\$14,071.4
#6 HV/AC	Icon Mechanical	\$2,619,000	\$236,871.25
#7 Electrical	Kaemmerlen Electric	\$2,314,920	\$116,719.25
	<b>Total</b>		\$613,484.07

Recommendation is to approve the ordinance.

**Alderman Harris introduced Bill No. 6322, to consider approving modifications to the existing contracts at 10 S. Brentwood Boulevard to be read for the first time by title only. Alderman Maddox-Dallas seconded.**

**In response to Mayor Goldstein's question, Dave Lowell, project manager for Paric Corporation, stated that they are currently on schedule with the renovations. He added that the construction of the solar panels had just recently started.**

**City Attorney O'Keefe reads Bill No. 6322, to consider approving modifications to the existing contracts for tenant finishes on the third floor as part of the conversion at 10 S. Brentwood Boulevard into a municipal and police facility and added that the language in Section 1 of the bill should reference Exhibit A, for the first time by title only.**

The motion passed unanimously on a voice vote.

**Alderman Harris introduced Bill No. 6322, to consider approving modifications to the existing contracts at 10 S. Brentwood Boulevard to be read for the second time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney O'Keefe reads Bill No. 6322 for the second time; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye;**

**Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Goldstein – Aye. The Bill was adopted and became Ordinance No. 6204 of the City of Clayton.**

**AN ORDINANCE TO CONSIDER APPROVING A PROJECT AGREEMENT WITH THE CLAYTON CENTURY FOUNDATION FOR THE SHAW PARK RECREATIONAL TRAIL**

City Manager Owens reported that on April 27, 2010, in order to formalize the partnership between the Clayton Century Foundation (CCF) and the City of Clayton (City), a Memorandum of Understanding was adopted by the parties that outlined the shared vision of how this public/private partnership would work in order to effectively and responsibly serve reasonable public and private interests on behalf of the City. Since that time, the CCF has secured funding for projects that were part of the City's Master Plans and were on the approved project list provided to them by the City.

The Project Agreement before you tonight is for the construction of the trail in Shaw Park. This trail will include a nature garden on the north end and an adult fitness area on the south end along with more than one mile of new trail surface. The CCF received donations and/or pledges from Brown Shoe, Moneta and Commerce Bank to help fund this project. In addition they had committed \$27,500 of funds raised through general donations in order to secure a grant from the Missouri Department of Natural Resources. The Department of Parks & Recreation is finalizing the design for this project and will be going out for bids in June with a goal to break ground in late summer.

In order to formalize the terms and conditions of this gift, the attached Project Agreement has been jointly developed. Included in this document is a detailed scope of work, payment arrangements as well as other items related to the timing of the project, signage, insurance, maintenance and reporting responsibilities.

Recommendation is to approve the Project Agreement with the Clayton Century Foundation for the Shaw Park Recreational Trail in Shaw Park.

**Alderman Harris introduced Bill No. 6323, to consider approving a contract with the Clayton Century Foundation for the Shaw Park Recreational Trail to be read for the first time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney O'Keefe reads Bill No. 6323, to consider approving a contract with Clayton Century Foundation for the construction of the Shaw Park Recreational Trail for the first time by title only.**

**The motion passed unanimously on a voice vote.**

**Alderman Harris introduced Bill No. 6323, to consider approving a contract with the Clayton Century Foundation for the Shaw Park Recreational Trail to be read for the second time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney O'Keefe reads Bill No. 6323 for the second time; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Goldstein – Aye. The Bill was adopted and became Ordinance No. 6205 of the City of Clayton.**

**AN ORDINANCE TO CONSIDER AN AMENDMENT TO CHAPTERS 355 AND 620 OF THE CLAYTON, MISSOURI, CITY CODE RELATING TO TAXICAB STANDS AND TAXI CAB BUSINESS LICENSING**

City Manager Owens reported that the City provides taxicab stands to enhance taxi services for the benefit of citizens, visitors and the business community. The City was approached last year with a request for an additional permit for a taxi cab company to occupy a space in one of the City's taxicab stands. This prompted the City to evaluate the current permitting process and discussions over the last few months have resulted in a recommendation to revise that process. Staff is presenting this information now to allow any approved changes to coordinate with the July 1, 2012 permitting year.

As part of this review the City chose to seek input from the taxi industry by inviting all licensed on-call taxi companies in the metro area to attend a meeting to discuss the City's permitting process for taxi stands. The City also invited representatives from the St. Louis Metropolitan Taxicab Commission, the entity responsible for licensing all taxi companies in the metropolitan area. This meeting was held last week and staff received substantial input from the attendees. As a result, staff has submitted the attached ordinance for your review.

The ordinance amends both Chapters 355 and 620 of the municipal code. The revision to Chapter 620 clarifies that taxi companies are only required to obtain a license from the City if the business is located in the City of Clayton, that they must hold a valid operating permit from the Metropolitan Taxicab Commission, deletes references to taxicab stands (now relocated to Chapter 355) and other minor changes.

The revision to Chapter 355 outlines the new process for obtaining a permit to occupy a taxicab stand parking space by changing the permits from one taxi company per parking space to a more open process whereby any appropriately licensed taxicab company may pay and obtain a permit to occupy a space in any taxi stand in the City. These spaces will be used on a first come first served basis. As an additional enhancement, the City intends to establish taxi stands in the evenings near local restaurants for the convenience of patrons and to promote the use of taxicabs as a "designated driver" option.

The cost of the taxicab stand permits was also evaluated as the annual amount of \$300 had not been increased in many years. This revenue from the permits attempts to supplant a portion of the loss of parking meter revenue for parking spaces designated as taxi stands. The new ordinance has graduated permit costs with a taxi company's first permit costing \$400, the second permit costing \$800 and the third permit costing \$1,200.

Staff believes this revised permitting process allows all taxicab companies the ability to obtain a permit to participate in taxi stands in the City. The City plans to monitor this entire process over the next year to assure the process meets the City's expectations.

Recommendation is to have a first reading of the ordinance at tonight's meeting.

**Alderman Harris introduced Bill No. 6324, to consider approving an amendment to Chapters 355 and 620 for Taxicabs to be read for the first time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney O'Keefe reads Bill No. 6324, to consider approving an amendment to Chapters 355 and 620 for Taxicab Stands and Taxicab business licensing for the first time by title only.**

**The motion passed unanimously on a voice vote.**

**AN ORDINANCE TO CONSIDER APPROVING A LEASE AGREEMENT WITH CLAYTON ON THE PARK, LLC FOR THE BONHOMME PARKING GARAGE**

City Manager Owens reported that on December 19, 2011 the Plan Commission considered an application to rezone 8025 Bonhomme Avenue for a Planned Unit Development to allow a change in use for the Clayton on the Park property. On January 10, 2012 the Board of Aldermen considered the same and approved the change in use.

Since 1998 the 8025 Bonhomme property has had a lease for parking spaces within the adjacent city owned parking facility. The lease has provided 260 spaces for the use of the Clayton on The Park property. The garage has a capacity of 570 spaces. Other users with parking rights include St. Louis County (269 spaces) and Moneta (90 spaces). St. Louis Parking, who operates the garage for the City, has advised that the operations of the garage should not be impacted from over selling at level below 120% of capacity, or 684 spaces.

The developer of 8025 Bonhomme has requested a modification to the parking lease. Staff and legal counsel have worked since January 2012 with the developer to reach the terms as follows:

- Increase the number of leased spaces from 260 to 280.
- Allow 8 spaces of the 280 to be reserved 24/7; currently none of the 260 spaces are reserved.
- Modify the lease payments from a flat monthly payment (\$15,600) for all 260 spaces to a system of leasing spaces as needed until the fifth year of the lease at which time all 280 spaces must be leased.
- Provide the developer with a right of first refusal on an additional 20 spaces provided they have leased all of the original 280 spaces.
- Decrease the number of spaces available at no charge to the developer for night, weekend, and holiday use from 69 to 49.

Recommendation is to approve the modifications to the lease.

**Alderman Harris introduced Bill No. 6325, to consider approving a parking lease agreement with Clayton on the Park, LLC to be read for the first time by title only. Alderman Maddox-Dallas seconded.**

In response to Mayor Goldstein's question, Jason Braidwood, Koman Group addressed the Board stating that they are currently under construction and hope to begin moving people into the building in approximately a month. He said that they are currently in discussion with a local restaurateur for the restaurant space in the building and also in discussion with a Clayton based spa to utilize the current space to provide spa services to its residents.

In response to Alderman Garnholz's question, Mr. Braidwood stated that originally in the 1990s as the units were leased over time would pay for the spaces as they needed them which is the concept that they will be using today. He explained for example that if they leased ten units the first week they would pay for ten spaces as of that week and they would continue to pay for those ten spaces in perpetuity for the lease with the right for 280. He said that there are two office buildings that lease and if those should ever change they would like the first opportunity at getting 20 of those spaces just to give them a little more comfort for people who might need multiple spaces per unit.

City Manager Owens explained that they will be required at the end of five years to take all of the spaces whether they have leased them out individually or not.

Alderman Berger commented that he is glad they are doing this and thanked Mr. Braidwood. He said that the original concept of the building was to offer leases for one day, one week, one month, and one year and asked Mr. Braidwood to explain briefly their concept of running the business.

Mr. Braidwood said that the concept is to be an apartment building as long term as possible for its residents in the building still allowing for increase in rents with a standard apartment lease of 12 or 13 months which is their primary focus.

**City Attorney O'Keefe reads Bill No. 6325, to consider approving a parking lease agreement with Clayton on the Park, LLC for the first time by title only.**

**The motion passed unanimously on a voice vote.**

**Alderman Harris introduced Bill No. 6325, to consider approving a parking lease agreement with Clayton on the Park, LLC to be read for the second time by title only. Alderman Maddox-Dallas seconded.**

**City Attorney O'Keefe reads Bill No. 6325 for the second time; Alderman Harris – Aye; Alderman Maddox-Dallas – Aye; Alderman Garnholz – Aye; Alderman Winings – Aye; Alderman Boulton – Aye; Alderman Berger – Aye; and Mayor Goldstein – Aye. The Bill was adopted and became Ordinance No. 6206 of the City of Clayton.**

**AN ORDINANCE TO CONSIDER THE REPEAL OF CHAPTER 410, ARTICLE XIII, (GUIDELINES FOR TREE PRESERVATION) AND ENACTING A NEW CHAPTER 405, ARTICLE XXIX, (RESIDENTIAL TREE AND LANDSCAPE REQUIREMENTS) OF THE CITY'S ZONING REGULATIONS**

City Manager Owens reported that the proposed ordinance has been discussed by the Board a number of times and reported on only the revised chapters and significant components of the proposed regulations:

1. Codifies the requirements for landscape and tree replacement and preservation into the City's Zoning Regulations (Chapter 405).
2. Requires a landscape plan/tree replacement plan for any residential project which causes site alternation or structural modification to a degree that would require site plan review and/or architectural review.
3. Classifies specific trees into categories for purposes of determining replacement requirements.
4. Increases the contribution to the Forestry fund, where applicable, from \$120 per lost caliper inch to \$200 to \$400 per lost caliper inch, depending upon a tree's classification.
5. Establishes minimum landscape standards for all new residential structures.
6. Specifies the length of time the tree protection surety bond is held and specifies replacement requirements for damaged trees.
7. Sets forth inspection requirements to ensure trees are properly protected and/or replaced.
8. Establishes a time limit for the replacement of trees.
9. Allows the Planning Director and the City's contracted landscape architect to administratively approve substitutions between approved tree lists when it can be determined that a proposed tree species is incompatible with the site or may compromise the health, safety and welfare of the citizens.
10. Sets forth the specific requirements for a tree preservation plan and landscape plan.
11. Identifies native trees.

**Alderman Harris introduced Bill No. 6314.2 to consider approving an amendment to the Clayton Municipal Code, Chapter 405, residential landscape to be read for the first time by title only. Alderman Maddox-Dallas seconded.**



Mayor Goldstein stated that the Board will have the first reading tonight and reported that this is an issue that has been studied and vetted very, very well. The Plan Commission spent approximately a 1 ½ - 2 years studying the proposal and staff presented the recommendations to the Board of Aldermen on February 28<sup>th</sup>. On March 5<sup>th</sup> the Plan Commission held a public hearing and voted unanimously in support of the changes. On April 10<sup>th</sup> the City held a public hearing followed by several additional meetings and discussions and the Board voted to table the ordinance on two separate occasions.

Alderman Garnholz expressed that she really appreciates the intent of the ordinance as it applies to new construction only and does not support applying the requirements to existing properties because she feels that the intent is overreaching the boundaries.

Alderman Maddox-Dallas said that she agrees with Alderman Garnholz and that she believes that some people are not realizing the impact the requirements of the ordinance will have on existing owners. She mentioned the early meeting comments regarding easement plantings and the 20 feet utility easement restrictions stating that in Ward 1 they have very small lots and the 20 feet restriction would be right in the middle of her back yard. She said that if this is the case, than almost every home in Hillcrest is in violation of the ordinance. She raised questions about where the replacement fees will go if the owner is forced to pay and how the fees will be applied, what is to differentiate between small and large lots. She mentioned her concerns about deck replacement, patios, out buildings or sheds. She asked about the timing in removing trees and is it one-year before the tree is removed and how will this be governed.

Alderman Harris expressed that she didn't realize that the Board would be voting tonight and missed seeing the Mayor's email message. She said that she is in support of codification of the existing practice and believes the primary issue is with the larger development and the loss of tree canopy. She said that she is comfortable with the proposed ordinance and that this is a great way to protect small projects and also suggested that the ordinance could be better phrased to include other construction projects besides decks.

City Manager Owens stated that the subject of decks has always been the primary example of concern and that other construction projects are already included in the City's existing code.

Alderman Winings commented that he would be interested to have more staff discussion, especially with regard to the utility easement issue because he is not clear on the practicality of this requirement.

City Manager Owens explained that the Plan Commission discussed the impact on small lots and that Ameren requested that the City enforce the 20 feet requirement so that power lines would have clearance from plantings.

City Attorney O'Keefe stated that the proposed ordinance is an effort to have some "teeth" to prevent problems. What they are looking at, in part, is to prevent problems before they occur with regard to plantings near power lines that could ultimately leave a homeowner without power.

Alderman Maddox-Dallas raised the question that a homeowner could even be fined if there is no room on their property to re-plant.

Alderman Berger asked that they try to stay focused on the business case of the proposed ordinance and that is the prevention of canopy loss, because tonight's vote is just for the

first reading of the ordinance.

In response to Alderman Boulton's question, City Attorney O'Keefe explained that the current practice is to replant or pay for the street trees.

Mike Pratt explained that it is current practice that if a development requires removal then the developer will pay into the tree fund and typically a homeowner is not allowed to remove a street tree if there is no development and that only Public Works staff maintains tree removal and replacement.

Alderman Boulton commented that she likes the ordinance, but wouldn't mind if it was stronger and believes that trees are a public good and that they have a value to the whole community.

**Alderman Harris moved to amend Bill No. 6314.2 to reflect revised text. Alderman Berger seconded.**

**The motion passed unanimously on a voice vote.**

**City Attorney O'Keefe read Bill No. 6314.2, first reading, an ordinance amending Chapter 405 of the Clayton City Code by adding a new Article 29, Residential Tree and Landscape Requirements repealing Article 13 and Sections 410.760 through 410.785 of Chapter 410 and amending certain other sections to update cross references to such provisions.**

Jane Mendelson, 110 Arundel Place, addressed the Board stating that there had not been good communication in Clayton and that if people knew of the proposed ordinance there would be a mass revolt from people who would feel intruded upon. She said that "big brother" Clayton would come into their backyards and tell them what they can and cannot do with their trees, additions and anything they want to do. They pay hundreds of thousands of dollars for their properties and she is a strong Democrat who now feels like a Tea Party person. She said that she understands the City wanting developers of new homes to protect existing trees and to replace removed trees and believes this is crucial also, but the proposed ordinance requires a homeowner who wants to build a pool or something to pay thousands of dollars to the City. She said that this would cause people to not buy houses in Clayton and the ordinance is confusing. She requests that the Board address these issues before voting because it seems that people are being punished to improve their own property. Clayton is being too specific and uptight for what people have to do and she recommended that the City publicize to the community about how important the canopy is, rule that everyone has to plant large deciduous trees in the tree lawn, and limit the size of a new house.

Mayor Goldstein responded stating that the City currently has code for impervious coverage and setbacks. She said that the Plan Commission is talking about revisiting the issues regarding the size of newly constructed houses and that developers would also argue that the City is too restrictive.

Mr. Sutherland addressed the Board stating that an owner's property is a collection of rights and the City is condemning the ownership rights for the benefit of Union Electric. He planned to plant an arborvitae to hide the school building to go over 25'. He said that this is a Fifth Amendment problem and that, referencing the *Kilo Decision*, the State of Missouri ruled that you cannot condemn owners for the benefit of third parties and added that the 20 feet provision is a problem.

City Attorney O'Keefe stated that the State of Missouri responded to the *Kilo Decision* with reforms on eminent domain proceedings, economic development and certain other circumstances such as the heritage property in certain farmlands. He suggests that those are all inapplicable here and

points out that the City's rule in saying that if you choose to plant trees that will become more than 25 feet tall they must be set back far enough so as to reduce the likelihood that they will interfere with power lines is not for the purpose of aiding Ameren or the utility company, it is for the purpose of protecting the public health safety and welfare of the residents of Clayton from the interruption of power which results from the current circumstance of the growth that has in fact interrupted power and has in fact dangerously misdirected power on some occasions.

Ms. Most addressed the Board stating that she has personally placed tree bags on trees planted in her neighborhood by the City and this is a "slap in the face." She has personally invested her time and money in trees that she isn't even allowed to trim.

Diane Meyer, 1 N. Seminary Terrace, addressed the Board stating that she has two issues with the ordinance amendment, 1) the amendment appears to be voted upon to protect the City from something going on in 10% of City where 90% of the City is doing well with their trees and wouldn't think of cutting down a tree; 2) She feels that this will penalize 90% of the homeowners because of the other 10%.

Tom Currier said that this is just a repeat of the tragedy of the Commons where everybody wants the green pasture to be there, but want to be able to "graze their sheep" and they must think hard about this issue.

**Mayor Goldstein requested a roll call vote: Alderman Harris – Aye; Alderman Maddox-Dallas – Nay; Alderman Garnholz – Nay; Alderman Winings – Aye; Alderman Boulton – Aye; Aldermen Berger – Aye; Mayor Goldstein – Aye. The motion passed 5-Ayes; 2-Nays.**

Mayor Goldstein thanked the citizens for their comments and said that the Board will take them into consideration.

#### Other

Mayor Goldstein reported that the Strategic Plan Steering Committee meeting was great with good input. The PowerPoint® presentation from the Board retreat was modified to reflect the Board's suggestions, but unfortunately the Steering Committee disagreed because they felt that it needed much more information and put the slides back into the presentation. The reason was because the Board of Aldermen may understand those things, but the general public does not.

Mayor Goldstein read a letter that she received from Harold Sanger stepping down as chairman from the Clayton Architectural Review Board/Planning Commission effective June 30, 2012 and that he will notify the Plan Commission members at the May 21, 2012 meeting. His letter stated that the end of June will mark his ten year anniversary as chairman and he expressed his gratitude to the mayor and the current Board.

Mayor Goldstein expressed her appreciation of the timeliness of his notice and that they will need to appoint someone to take his place by July 1.

Mayor Goldstein expressed happy birthday wishes to City Manager Owens.

Alderman Harris reported that the falcons have come back and have two chicks and they are nesting at the top of the DHR building.

Alderman Garnholz reported that the Plan Commission publicly thanked Harold Sanger for his service and great job during his tenure.

Alderman Boulton suggested placing a web cam on the falcon nest.

There being no further business the meeting adjourned at 8:50 p.m.

---

Mayor

ATTEST:

---

City Clerk